

PT 00-33

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

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| HINDU HERITAGE CENTER |) | | |
| |) | A.H. Docket # | 99-PT-0008 |
| Applicant |) | | |
| |) | Docket # | 98-72-37 |
| v. |) | | |
| |) | Parcel Index # | 17-01-351-007 |
| THE DEPARTMENT OF REVENUE |) | | |
| OF THE STATE OF ILLINOIS |) | | |

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Ajay K. Puri, attorney at law, appeared on behalf of the Hindu Heritage Center.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on September 8, 1999, to determine whether or not Peoria County Parcel Index No. 17-01-351-007 qualified for exemption from real estate taxation for the 1998-assessment year.

Mr. Prakash D. Babu, Chairman of the Hindu Heritage Center (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant is a religious organization; secondly, whether the applicant owned this parcel during the 1998-assessment year; and lastly,

whether the applicant was either in the process of adapting this parcel for religious purposes or actually used this parcel for religious purposes during the 1998-assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious organization. It is also determined that the applicant owned this parcel during the entire 1998-assessment year. Finally, it is determined that the applicant was in the process of adapting this parcel for exempt use during the entire 1998-assessment year.

It is therefore recommended that this parcel be exempt from real estate taxation for the 1998-assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the “Department”) in this matter, namely that this parcel was not in exempt ownership and also not in exempt use during the 1998-assessment year was established by the admission in evidence of Department’s Exhibit Nos. 1 through 6A.

2. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois on March 15, 1994, for the following purpose:

To have a place for Religious, Educational & Spiritual activities of
Hindu Community of the Region (Appl. Ex. No. 2)

3. Hinduism is one of the dominant religious practices in India. While the Hindu religion involves a belief in one God, it also involves the worship of several gods and goddesses. In Hinduism there are several denominations. (Tr. 14 & 15)

4. In the Central Illinois area including Peoria, Bloomington, Galesburg, and Springfield there are approximately 450 families from India. Most of these families are Hindus, while some of them are Christians, and some are Muslims. (Tr. p. 16)

5. Before the applicant began to construct its Hindu temple on the parcel here in issue the nearest place of worship for Central Illinois Hindus was either metropolitan Chicago or St. Louis. (Tr. p. 16)

6. Since its inception in 1994 and continuing to the date of the hearing, the applicant has exclusively conducted various Hindu festivals, gospel-like singing sessions, and spirituality discussions and meditation sessions in the Central Illinois area. Some of these activities have been held in hotels, schools, or other public places, and others have been held in the homes of persons active in the applicant. (Appl. Ex. No. 1)

7. The Hindu festivals which the applicant has celebrated have included Ramnavami, which celebrates the birth of Lord Rama, one of the deities of Hinduism. This festival was held at the Grandview Hotel in Peoria. The Sankranti-Pongal festival has been held at the Dunlap High School in Dunlap, Illinois. This festival offers worship to the sun. The Maha-Shivaratri, literally translated “the night of Lord Shiva” is a festival celebrated by Hindus. It is marked by fasting and an all night vigil. This festival was celebrated at the Lakeview YWCA in Peoria. The festival of Durga-Ashtami celebrates the female aspect of God which destroys evil in man and ushers in spirituality. (Appl. Ex. No. 1)

8. The applicant has also celebrated the festival of Janmashtami which marks the birth of another deity, Lord Krishna. The festival of Ganesh-Chaturthi has also been celebrated. This is a festival where prayers and devotional songs are offered to the Son of God. Ganesha is considered the remover of all obstacles, spiritual as well as material. (Appl. Ex. No. 1)

9. In addition, spirituality discussions and meditation sessions have been held in the homes of various devotees of the applicant on at least a monthly basis. (Appl. Ex. No. 1)

10. On June 1, 1996, the applicant made an offer to buy the 25.1-acre parcel here in issue subject to applicant being able to obtain a Special Use zoning permit from Peoria County. (Appl. Ex. No. 1)

11. During September 1996 the applicant filed a petition for the zoning Special Use permit and attended a hearing before the Peoria County Planning and Zoning Commission. The Special Use permit was granted by the Planning and Zoning Commission. (Appl. Ex. No. 1, Tr. p. 38)

12. The next step in the zoning process was to present the petition for the Special Use permit to the Peoria County Zoning Board of Appeals. On October 11, 1996, the Zoning Board of Appeals approved the Special Use permit of the applicant. (Appl. Ex. No. 1, Tr. p. 38)

13. On December 10, 1996, the Peoria County Board granted a Special Use permit to the applicant for the construction of a Hindu Temple on the parcel here in issue. The Special Use permit was issued on the condition that the applicant would have all the necessary permits to start construction of the Temple on or before December 1998. (Appl. Ex. No. 1, Tr. p. 39)

14. The applicant then acquired the 25.1-acre parcel here in issue by a warranty deed dated April 18, 1997. (Dept. Ex. No. 2B)

15. Beginning in May of 1997 the Facility Committee of the applicant, working with a volunteer architect, Ms. Usha Rangrangan, prepared design specifications for the temple which the applicant desired to construct on the parcel here in issue. During May 1998 the applicant picked Ben Moye & Sons to be the Contractor to build the temple. From May 1998 to July 1998, the applicant worked with Ben Moye & Sons to make the designs more cost effective. (Tr. pp. 44-47, Appl. Ex. No. 1)

16. During the early part of August 1998, applicant, with the help of Ben Moye & Sons and a group of volunteers, built a road leading to the construction site. (Appl. Ex. No. 1)

17. During August 1998, final changes to the drawings were made in consultation with a temple architect so that the temple would conform to the ancient Hindu science of Vasthu. The science of Vasthu takes into account the directions and forces of nature in building a Temple. (Tr. pp.47 & 48)

18. On August 27, 1998, a ground breaking ceremony was conducted at the site by a Hindu priest from the Lamont Temple in the Chicago area. (Tr. pp. 47 & 48, 52, Appl. Ex. No. 1)

19. During September and October 1998, the applicant worked with the Illinois Environmental Protection Agency and was granted an erosion control permit. (Appl. Ex. No. 1)

20. Construction began on the Hindu Temple on this parcel during October 1998. By December 31, 1998, the basement walls were poured which signified that the building was 25% complete. (Appl. Ex. No. 1)

21. On the day of the hearing the witness for the applicant estimated that the building on this parcel was approximately 75% complete. (Tr. p.58)

22. The witness for the applicant estimated that the temple would be completed and usable for the festival of Diwali which was scheduled to take place on November 7, 1999. The festival of Diwali celebrates the destruction of evil. (Tr. p. 59)

23. At the time of the hearing approximately 300 to 400 people were attending the festivals conducted by the applicant.

24. The applicant has never charged a membership fee. In addition, the applicant has received donations from both Hindus and non-Hindus. (Tr. pp. 24 & 25, Appl. Ex. No. 1)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning property used for religious purposes, 35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt,

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed

strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore clear that the burden of proof in this matter is on the applicant.

Based on the evidence and testimony in this matter I conclude that the applicant is a Hindu religious organization which celebrates Hindu religious festivals, and conducts spirituality discussions and meditation sessions. The Hindu Temple which was under construction on the parcel here in issue during the 1998-assessment year will be used by the applicant for these activities upon completion. The foregoing activities, I conclude, include religious worship and instruction. A religious purpose pursuant to the constitutional provision concerning exemption from taxation is a use of property by a religious society or organization as a place for worship, Sunday schools, and religious instruction. People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132 (1911). I therefore conclude that the applicant will be using the Temple on this parcel for religious purposes once construction is complete.

In view of the Warranty Deed conveying this parcel to the applicant dated April 18, 1997, I conclude that the applicant owned this parcel during all of the 1998-assessment year.

Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector,

48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). I conclude that the applicant was in the process of developing and adapting this parcel for exempt use by either preparing for construction or beginning construction of the Hindu Temple on this parcel during the entire 1998-assessment year.

I therefore recommend that Peoria County Parcel Index No. 17-01-351-007 be exempt from real estate taxation for the 1998-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
May 3, 2000